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A-570-502
Sunset Review
Public Document

MEMORANDUM TO: Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

FROM: Ronald K. Lorentzen
Acting Director, Office of Policy

SUBJECT: Issues and Decision Memorandum for the Five-Year (“Sunset”) Review of the Antidumping Duty Order on Certain Iron Construction Castings from the People’s Republic of China; Final Result

Summary

We have analyzed the substantive responses of interested parties in the five-year sunset review of the antidumping duty order on certain iron construction castings (“iron castings”) from the People’s Republic of China (“PRC”). We recommend that you approve the positions we have developed in the “Discussion of the Issues” section of this memorandum. Below is the complete list of the issues in this sunset review for which we received substantive comments:

1. Likelihood of continuation or recurrence of dumping
2. Magnitude of the margin likely to prevail

History of the Order

The antidumping duty order on iron castings from the PRC was published in the Federal Register on May 9, 1986. See Antidumping Duty Order; Iron Construction Castings From the People’s Republic of China, 51 FR 17222 (May 9, 1986). In the order, the Department established a dumping margin of 11.66 percent for all manufacturers, producers, and exporters of iron castings from the PRC. Following the issuance of the order, the Department conducted several administrative reviews.¹ In each administrative review, the Department continued to find that PRC producers and exporters were dumping at margins above de minimis.

¹ Iron Construction Castings From the People’s Republic of China; Final Results of Antidumping Duty Administrative Review, 56 FR 2742 (January 24, 1991), Final Results of Antidumping Duty Administrative Review; Certain Iron Construction Castings From the People’s Republic of China, 57 FR 10644 (March 27, 1992), Iron Construction Castings From the People’s Republic of China; Final Results of Antidumping Duty Administrative Review, 57 FR 24245 (June 8, 1992); Iron Construction Castings From the People’s Republic of China; Amended Final Results of Antidumping Duty Administrative Reviews in Accordance with Court Decision, 67 FR 57211 (September 9, 2002); Iron Construction Castings from the People’s Republic of China; Amended Final Results of Antidumping duty Administrative Review in accordance with Court Decision, 67 FR 57213 (September 9, 2002).

On November 2, 1998, the Department published a notice of initiation of the first five-year sunset review on iron castings from the PRC. See Initiation of Five-Year Review, 63 FR 58709 (November 2, 1998). The Department published the final results of the first sunset review on June 7, 1999. See Final Results of Expedited Sunset Review: Certain Iron Construction Castings from Brazil, Canada, and the People's Republic of China, 64 FR 30310 (June 7, 1999). In the final results of that review, the Department determined that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. As a result, and pursuant to section 751(d)(2) of the Tariff Act of 1930, as amended ("the Act"), the Department published a notice of continuation. See Continuation of Antidumping Duty Orders; Certain Iron Constructing from Brazil, Canada, and the People's Republic of China, 64 FR 61590 (November 12, 1999).

Since the completion of the first sunset review, the Department has published an amended final results of administrative review. See Certain Iron Construction Castings from the People's Republic of China; Amended Final Results of Antidumping Duty Administrative Review in Accordance with Court Decision, 67 FR 57213 (September 9, 2002).²

On June 24, 2002, the Department initiated an administrative review for the period May 1, 2001, through April 30, 2002. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 67 FR 42573 (June 24, 2002). However, that review was rescinded. See Iron Construction Castings from the People's Republic of China: Rescission of Antidumping Duty Administrative Review, 68 FR 33103 (June 3, 2003).

On July 1, 2003, the Department initiated an administrative review for the period May 1, 2002, through April 30, 2003. See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part and Deferral of Administrative Reviews, 68 FR 39055 (July 1, 2003). That review was also rescinded. See Iron Construction Casting from the People's Republic of China; Rescission of Antidumping Duty Administrative Review, 68 FR 63064 (November 7, 2003). Currently, a scope ruling is pending. No other administrative reviews have been conducted by the Department.

Background

On October 1, 2004, the Department initiated a second sunset review of the antidumping duty order on iron castings from the PRC, pursuant to section 751(c) of the Tariff Act of 1930, as amended, ("the Act"). See Initiation of Five-Year ("Sunset") Reviews, 69 FR 58890 (October 1, 2004). The Department received a Notice of Intent to Participate on behalf of Deeter Foundry, Inc., East Jordan Iron Works, Inc., LeBaron Foundry, Inc., Leed Foundry, Inc., Municipal Castings, Inc., Neenah Foundry Company, Tyler Pipe Company, and U.S. Foundry & Manufacturing Co. (collectively, "domestic interested parties"), within the deadline specified in section 351.218(d)(1)(i) of the Department's regulations. Domestic interested parties claimed

² In the amended final results, the Department assigned MACHIMPEX Liaoning, an 11.66 percent margin, in accordance with the Court of International Trade's decision.

interested party status under section 771(9)(C) of the Act, as U.S. producers of the subject merchandise.

The Department received a substantive response to the Notice of Initiation from domestic interested parties on November 1, 2004. However, we did not receive substantive responses from respondent interested parties. Pursuant to section 351.218(e)(1)(ii)(C) of the Department's regulations, the Department conducted an expedited sunset review.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department is conducting this sunset review to determine whether revocation of the AD order would likely lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making these determinations, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order. In addition, section 752 (c)(3) of the Act provides that the Department shall provide to the International Trade Commission ("ITC") the magnitude of the margin of dumping likely to prevail if the order were revoked.

Below we address the comments of the interested parties.

1. Likelihood of continuation or recurrence of dumping

Interested Parties' Comments

Domestic interested parties argue that the respondents have reduced their sales to the United States dramatically and, thus, if the orders were revoked, it is likely that dumping would continue because the evidence demonstrates that the foreign producers/exporters need to dump to sell in any significant quantities in the United States. Specifically, the domestic interested parties argue that the volume and value data on imports of heavy castings demonstrate that once the order was imposed, imports began to decline. See Domestic Interested Parties, Substantive Response, November 1, 2004, at 32.

With respect to whether dumping continued at any levels above de minimis after the issuance of the antidumping duty order, the domestic parties note that dumping margins above de minimis were found in each subsequent administrative review conducted by the Department. Id. at 22-29

With respect to imports of heavy castings from the PRC, domestic interested parties state that imports did not decrease immediately after the issuance of the order. Domestic interested parties argue that this is presumably because the 11.66 percent rate from the original investigation was an insufficient deterrent to importers. The statistics provided by the domestic interested parties demonstrate that imports of heavy castings from the PRC did not begin to decrease significantly

until 1991. Domestic interested parties point out that the higher margins from the final results of the 1987-1988 and 1988-1989 administrative reviews were issued in January 1991. With respect to imports of light castings, the domestic interested parties state that because light castings enter the United States under a so-called "basket" category, they do not have firm data on imports for this merchandise. They assert, however, based on day-to-day observation of conditions of competition in the marketplace, that imports have dwindled and there is little evidence of PRC imports.

Citing the Statement of Administrative Action ("SAA"), domestic interested parties argue that the declining import volumes from the PRC, after the order went into effect, is highly probative of the likelihood of continuation or recurrence of dumping if the order were revoked. Domestic interested parties conclude that the Department should assume that exporters of the subject castings from the PRC cannot sell their goods in the U.S. market without dumping and, therefore, they would have to continue or resume dumping if they want to reenter the U.S. market at any reasonable commercial volumes.

Department's Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("SAA"), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H. Rep. No. 103-826, pt. 1 (1994) ("House Report"), and the Senate Report, S. Rep. No. 103-412 (1994) ("Senate Report"), the Department normally determines that revocation of an antidumping duty finding is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the finding, (b) imports of the subject merchandise ceased after the issuance of the finding, or (c) dumping was eliminated after the issuance of the finding and import volumes for the subject merchandise declined significantly.

An examination of the margin history of the antidumping duty order, as well as an examination of the import statistics provided by the domestic interested parties, confirms that dumping continued after the issuance of the antidumping duty order, and imports of the subject merchandise continued to be below pre-order levels. Dumping margins above de minimis were found to exist in each of the administrative reviews of the antidumping duty order. Further, following the five-year sunset review, deposit rates above de minimis continued in effect for imports of castings from the PRC. These rates remain unchallenged by respondents. Therefore, given that dumping margins above de minimis were found to exist and continue in effect, the Department determines that dumping is likely to continue if the order were revoked. See SAA at 889.

2. Magnitude of the margin likely to prevail

Interested Parties' Comments

Domestic interested parties assert that the rate applied to imports after 1990 may be the most appropriate to provide to the ITC because margins of dumping have continued to increase since that time and imports have remained at low levels. See Domestic Response at 41. Specifically domestic interested parties assert that the more recent rate of 92.74 percent, the same rate that the Department relied on in the first sunset review, is the rate to provide to the ITC. Id.

Department's Position

The Department normally will select a margin from the final determination of the investigation because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order. See SAA at 890, and the House Report at 64. However, the Department may use a more recently calculated margin, when appropriate. See SAA at 890. In certain instances, a company may choose to increase dumping in order to maintain or increase market share. As a result, increasing margins may be more representative of a company's behavior in the absence of an order.

The Department agrees with domestic interested parties that we should report a more recently calculated margin. In light of the correlation between the decrease in imports and the increase in the dumping margin, the Department finds that a more recently calculated rate is the most probative of the behavior of PRC producers/exporters of iron castings.

We disagree with domestic interested parties, however, that the margin should be 92.47 percent, as determined in the first sunset review. That rate was amended under a Court of International Trade remand on September 9, 2002, following the completion of the first sunset review of 1999 to 25.52 percent. That is the highest calculated PRC-wide rate that was not judicially invalidated. See Iron Construction Castings from The People's Republic of China; Amended Final Results of Antidumping Duty Administrative Review in Accordance with Court Decision 67 FR 57213 (September 9, 2002).

Accordingly, and pursuant to section 752(c) of the Act, the Department will report to the ITC the PRC country wide-rate from the September 9, 2002, amended final results of administrative review, as indicated in the "Final Results of Review" section of this notice.

Final Results of Review

As a result of this sunset review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the rate listed below:

Manufacturer/Producer/Exporter	Weighted-Average Margin (percent)
PRC-wide rate	25.52

Recommendation

Based on our analysis of the substantive responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of review in the Federal Register.

Agree _____

Disagree _____

Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

(Date)